



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Insurance Commissioner

☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:

Permanent Rules

☒ 31 days after filing.

☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☐ Immediately upon filing.

☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: To update Title 284 WAC to correct century references after the millennium.

Insurance Commissioner Matter No. R 2006-04

Citation of existing rules affected by this order:

Repealed:

Amended: WAC 284-07-380, WAC 284-15-030, and WAC 284-15-040

Suspended:

Statutory authority for adoption: RCW 48.02.060

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 06-07-151 on March 22, 2006 (date).

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____

Address: _____ fax () _____

e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: June 6, 2006

NAME (TYPE OR PRINT)

Mike Kreidler

SIGNATURE

TITLE

Insurance Commissioner

CODE REVISER USE ONLY

Information input by Agency

**CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED**

JUN 6 2006

TIME 10:23 AM

WSR 06-12-077

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>3</u>	Repealed	_____
-----	-------	---------	----------	----------	-------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

WAC 284-07-380 Statement of actuarial opinion based on an asset adequacy analysis. (1) The statement of actuarial opinion submitted in accordance with this section shall consist of:

(a) A paragraph identifying the appointed actuary and his or her qualifications (see subsection (2)(a) of this section);

(b) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, (see subsection (2)(b) of this section) and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed;

(c) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see subsection (2)(c) of this section), supported by a statement of each such expert in the form prescribed by subsection (5) of this section; and

(d) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see subsection (2)(f) of this section).

(e) One or more additional paragraphs may be appropriate in individual company cases, as follows:

(i) If the appointed actuary considers it necessary to state a qualification of his or her opinion;

(ii) If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;

(iii) If the appointed actuary must disclose reliance upon any portion of the assets supporting the asset valuation reserve (AVR), interest maintenance reserve (IMR), or other mandatory or voluntary statement of reserves for asset adequacy analysis;

(iv) If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

(v) If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release; or

(vi) If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

(2) Recommended language: The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical

circumstances shall be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language which clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

(a) The opening paragraph shall generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

(i) For a company actuary, the opening paragraph of the actuarial opinion shall read substantially as follows:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of that insurer to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and disability insurance companies."

(ii) For a consulting actuary, the opening paragraph shall contain a statement substantially similar to the following:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and disability insurance companies."

(b) The scope paragraph shall include a statement substantially similar to the following:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, (~~(19)~~) 20 []. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

Asset Adequacy Tested Amounts				Reserves and Liabilities	
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1) + (2) + (3) (4)
Exhibit 8					
A Life Insurance					
B Annuities					

C	Supplementary Contracts Involving Life Contingencies					
D	Accidental Death Benefit					
E	Disability - Active					
F	Disability - Disabled					
G	Miscellaneous					
	Total (Exhibit 8 Item 1, Page 3)					
Exhibit 9						
A	Active Life Reserve					
B	Claim Reserve					
	Total (Exhibit 9 Item 2, Page 3)					
Exhibit 10						
1	Premiums and Other Deposit Funds					
1.1	Policyholder Premiums (Page 3, Line 10.1)					
1.2	Guaranteed Interest Contracts (Page 3, Line 10.2)					
1.3	Other Contract Deposit Funds (Page 3, Line 10.3)					
2	Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 3)					
3	Dividend and Coupon Accumulations (Page 3, Line 5)					
	Total Exhibit 10					
Exhibit 11 Part 1						
1	Life (Page 3, Line 4.1)					
2	Health (Page 3, Life 4.2)					
	Total Exhibit 11, Part 1					
	Separate Accounts (Page 3, Line 27)					
TOTAL RESERVES						

IMR (Page <u>3</u> Line <u>11.4</u>)	
AVR (Page <u>3</u> Line <u>24.1</u>)	(c)

Notes to table of reserves and related actuarial items:

Page and line numbers refer to the 1992 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.

(a) The additional actuarial reserves are the reserves established under WAC 284-07-350 (5)(b) or (c).

(b) The appointed actuary shall indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in WAC 284-07-350(4), by means of symbols which shall be defined in footnotes to the table.

(c) Allocated amount."

(c) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include a statement substantially similar to one of the following:

(i) "I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement, . . ."

(ii) "I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."

A statement of reliance on other experts should be accompanied by a statement by each of such experts of the form prescribed by subsection (5) of this section.

(d) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall also include substantially the following statement:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary."

(e) If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force or asset records or both prepared by the company or a third party, the reliance paragraph shall include a statement substantially similar to one of the following:

(i) "I have relied upon listings and summaries [of policies and contracts, of asset records] prepared by [name and

title of company officer certifying in-force records] as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

- (ii) "I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."

Such a section shall be accompanied by a statement by each person relied upon based on the form prescribed by subsection (5) of this section.

(f) The opinion paragraph shall include a statement substantially similar to the following:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

- (i) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;
- (ii) Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;
- (iii) Meet the requirements of the insurance laws and regulations of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;
- (iv) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below);
- (v) Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items

including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The actuarial methods, considerations, and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.

or

The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary"

(3) Assumptions for new issues: The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used

for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this section.

(4) Adverse opinions: If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(5) Reliance on data furnished by other persons. If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force or asset-oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data, substantially similar to either or both of the following, as appropriate:

(a) "I [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, ((19)) 20 [], and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

Signature of the Officer of the Company
or Accounting Firm

Address of the Officer of the Company
or Accounting Firm

Telephone Number of the Officer of the
Company or Accounting Firm"

(b) "I, [name of officer], [title] of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries, and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

Signature of the Officer of the Company,
Accounting Firm or the Security Analyst

Address of the Officer of the Company,
Accounting Firm or the Security Analyst

Telephone Number of the Officer of the
Company, Accounting Firm or
the Security Analyst"

AMENDATORY SECTION (Amending Order R 81-1, filed 1/21/81)

**WAC 284-15-030 Surplus line brokers' form to be filed--
Contract stamp to be used.** (1) RCW 48.15.040 requires that a surplus line broker execute an affidavit at the time of procuring insurance from an unauthorized insurer, and to file such affidavit with the commissioner within thirty days after the insurance is procured. The form for filing such affidavit shall be in substantially the following form, and may include additional information to satisfy requirements of the Surplus Line Association of Washington:

Policy or
Certificate No:

Premium, including
any policy fee:

1. Name and license number of filing Surplus Line Broker:
2. Name and address of producing agent or broker (if any):
3. Name(s) of unauthorized insurer(s):
4. Name and address of insured:
5. Brief statement of coverages (common trade terms may be used, e.g. "furrier's block"):

STATE OF WASHINGTON	}		SURPLUS LINE
	}	SS.	BROKER'S
COUNTY	}		AFFIDAVIT

I have procured insurance from an unauthorized insurer or insurers, in accordance with the laws and regulations of the state of Washington under my Surplus Line Broker's license. Details of such transaction are set forth above.

Such insurance could not be procured, after diligent effort was made to do so from among a majority of the insurers authorized to transact that kind of insurance in this state, and placing the insurance in such unauthorized insurer(s) was not done for the purpose of securing a lower premium rate than would be accepted by any authorized insurer.

I certify that I am duly authorized to place this coverage on behalf of the insured, that the risk has been duly accepted by the insurer(s), and that I ascertained the financial condition

of the unauthorized insurer(s) before placing the insurance
therewith.

(Signature of Surplus Line Broker)

Subscribed and sworn to before me this day
of, ((49)) 20...

.....
Notary Public in and for the State
of Washington, residing at

(2) Every insurance contract, including those evidenced by
a binder, procured and delivered as a surplus line coverage
pursuant to chapter 48.15 RCW shall have a conspicuous statement
stamped upon its face, which shall be initialed by or bear the
name of the surplus line broker who procured it, as follows:

"This contract is registered and delivered as a surplus line coverage under the insurance code of the state of
Washington, enacted in 1947. It is not issued by a company regulated by the Washington state insurance
commissioner and is not protected by any Washington state guaranty fund law."

AMENDATORY SECTION (Amending Order R 81-1, filed 1/21/81)

**WAC 284-15-040 Form for surplus line insurer to designate
person to receive legal process.** (1) RCW 48.15.150 permits
service of legal process against an unauthorized insurer that is
sued upon any cause of action arising in this state under any
contract issued by it as a surplus line contract to be made upon
the insurance commissioner. The commissioner will mail the
documents of process to the insurer at its principal place of
business last known to the commissioner, or to a person
designated by the insurer for that purpose in the most recent
document filed with the commissioner on a form prescribed by the
commissioner. If such unauthorized insurer elects to designate
a person to receive such legal process from the commissioner,
the designation shall be filed with the commissioner in
substantially the form set forth in subsection (2) of this
section.

(2) DESIGNATION OF PERSON TO WHOM COMMISSIONER SHALL FORWARD LEGAL PROCESS.

To the Insurance Commissioner of the state of Washington:

Pursuant to RCW 48.15.150, the undersigned Insurer hereby designates:

Name

Address

as the person to whom the Insurance Commissioner shall forward legal process against the Insurer. This designation supersedes any similar designation heretofore made by this Insurer.

Executed at, this day of, ((19))
20 . . .

(Insurer)

B
y

(Title)

(3) The "person" designated may be an individual, firm or corporation.

(4) The commissioner shall forward process to the person designated in the most recent document filed with him.

(5) Pursuant to RCW 48.15.150, each policy issued by an unauthorized insurer as a surplus line contract must contain a provision designating the commissioner as the person upon whom service of process may be made.